

IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI

Suit No..... 2/1 of 2024.

Date of Institution.....06.02.2024.

Date of Decision.....04.03.2024.

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1. Musawir Ali
2. Muhawar Ali Ss/O, Zakir Ali both R/O Qaum Mani Khel, Tappa Mirwas Khel, Tehsil Lower, District Orakzai.

.....(Plaintiffs)

VERSUS

1. Assistant Director NADRA, District Orakzai.
2. Director General NADRA, KPK.
3. Chairman NADRA, Islamabad, Pakistan.

.....(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT

04.03.2024

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Musawir Ali etc against defendant Assistant Director NADRA, District Orakzai and two others for declaration and permanent injunction.

Brief facts as per plaint are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that they are twins by birth and their true and correct date of birth is 05.04.2005 whereas defendants have incorrectly and wrongly

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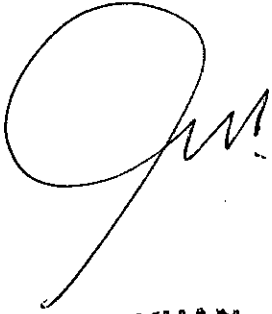
04.03.2024

entered date of birth of plaintiff No. 1 as 05.04.2001 and date of birth of plaintiff No. 2 as 08.04.2005. It is further averred that due to this wrong entry, there is unnatural age difference of about 13 years between plaintiff No. 1 and his mother namely Shaimin Begum whose date of birth is 01.01.1988 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That defendants were asked time and again to rectify dates of birth of plaintiffs but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement. From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES:

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time?
3. Whether correct date of birth of plaintiffs is 05.04.2005 being twins by birth and defendants have wrongly entered date of birth of plaintiff No. 1 as 05.04.2001 and date of birth of plaintiff No. 2 as 08.04.2005? OPP
4. Whether plaintiffs are entitled to the decree as prayed for?
OPP



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5. Relief.

Upon submission of list of witnesses; both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence. After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiffs produced three witnesses in support of their claim while defendants produced one witness in defense.

Musawir Ali (plaintiff No. 1) appeared himself and deposed as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex.PW-1/1, copy of matric certificate is Ex.PW-1/2, copy of matric DMC is Ex.PW-1/3, copy of FSc DMC is Ex.PW-1/4, copy of CNIC of plaintiff No. 2 is Ex.PW-1/5, copy of CNIC of mother of plaintiffs is Ex.PW-1/6. He lastly requested for decree of suit in their favor. Mudasir Ali and Hizar Ali uncles of plaintiffs appeared and deposed as PW-02 and PW-03 respectively. They also supported the claim of plaint. Copy of CNIC of Mudasir is Ex.PW-2/1 and copy of CNIC of Hizar Ali is Ex.PW-3/1.

Thereafter, evidence of plaintiffs was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiffs have been issued CNICs as per information provided by them and that they have



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got no cause of action. He produced authority letter which is Ex. DW-1/1.

Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.


ISSUE NO.2

Plaintiffs have been issued CNICs on 04.10.2023 and 18.05.2023 with expiry dates as 04.10.2033 and 18.05.2033 while suit in hand was filed on 06.02.2024. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3

Claim of plaintiffs is that they are twins by birth and their true and correct date of birth is 05.04.2005 whereas defendants have incorrectly and wrongly entered date of birth of plaintiff No. 1 as 05.04.2001 and date of birth of plaintiff No. 2 as 08.04.2005. It is further averred that due to this wrong entry, there is unnatural age difference of about 13 years between plaintiff No. 1 and his mother namely Shaimin Begum whose date of birth is 01.01.1988 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified.

Plaintiffs produced cogent, convincing and reliable documentary evidence in shape of Ex.PW-1/2, Ex.PW-1/3 and Ex.PW-1/4. School Certificates carries weight as presumption of



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correctness attached to it. There is unnatural age difference of about 13 years between plaintiff No. 1 (son) and mother whose date of birth per CNIC is 01.01.1988. The rectification sought by plaintiffs will not affect rights of others. Oral evidence produced by plaintiffs is also supportive to the averments of plaint.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiffs is 05.04.2005 being twins by birth. Date of birth of plaintiffs be rectified/modified from 05.04.2001 and 08.04.2005 to 05.04.2005. Issue No. 3 decided accordingly.

ISSUE NO.1 & 4.

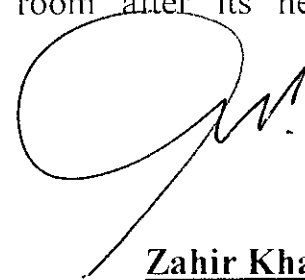
In the light of foregoing discussion, it is held that plaintiffs have got cause of action and they are entitled to the decree, as prayed for. Both these issues are decided accordingly.

RELIEF:

Crux of my issue wise discussion is that suit of plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to costs. This decree shall not affect the rights of others interested, if any or service record of plaintiffs, if any.

File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
04.03.2024



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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

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